

RZ/FDP 2003-DR-058

July 15, 2004

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, the owners, and Landmark Property Development, LLC (hereinafter referred to as "Applicant") for themselves, their successors and assigns in RZ/FDP-2003-DR-058 filed for property identified as Tax Maps 10-4 ((1)) Parcels 1, 2A & 2B (hereinafter referred to as the "Application Property"), proffer the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-2 District.

1 Development Plan:

Development of the Application Property shall be in substantial conformance with the Conceptual / Final Development Plan ("CDP/FDP") prepared by Charles P. Johnson & Associates consisting of four (4) sheets dated October 7, 2003 as revised through June 24, 2004.

2 Minor Modifications:

Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the FDP may be permitted as determined by the Zoning Administrator.

3 Provision of Sidewalks and Private Streets:

Sidewalks shall be provided in the locations as generally shown on the CDP/FDP. Both the streets and sidewalks shall be constructed in conformance with the Public Facilities Manual [PFM] to design, depth of pavement and materials consistent with public street and sidewalk standards. The Applicants shall be responsible for the maintenance of all private streets and sidewalks until the HOA takes responsibility. Purchasers shall be advised in writing prior to entering into a contract of sale that the HOA will be responsible for the maintenance of the private streets and sidewalks. The HOA documents shall expressly state that the HOA shall be responsible for the maintenance of the private streets and sidewalks serving that HOA's development area.

4 Energy Efficiency

All homes on the subject site shall meet the thermal guidelines of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES, for either gas or electric energy systems.

5 Landscaping/Tree Save:

- A) Landscaping will be provided in substantial conformance with the landscape plan (Sheet 3 & 4) as determined by the Urban Forestry Division of DPWES. The applicant shall utilize native species in site landscaping wherever possible.
- B) The applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division.
- C) The tree preservation plan for the tree save area shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches in diameter and greater, located within twenty (20) feet of either side of the limits of clearing and grading shown on the CDP/FDP for the open space areas on the CDP/FDP and along perimeter of the site. The tree survey shall also include areas of clearing and grading not shown on the CDP/FDP resulting from engineering requirements, such as off-site clearing and grading for utilities or storm-water outfall. But not the trail on the Park Authority Property, 10-2 ((4)) Parcel D. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan. As recommended by the Urban Forester, the applicant agrees to root prune along the limits of clearing and grading adjacent to the white pines that will be preserved on the Northern, Western, and Southern portions of the site. Root pruning will also be conducted along the Western portions of the site wherever trees would be impacted by construction. Root pruning will be conducted with a trencher or vibratory plow to a depth of eighteen (18) inches. It shall take place prior to any clearing and grading or demolition of structures in the vicinity of said trees and shall be conducted under the supervision of a certified arborist.
- D) The Project Arborist in coordination with the Urban Forester shall also determine the replacement value of the healthy trees measuring ten (10) inches or larger in diameter located within the tree save area depicted on the CDP/FDP. These trees and their value shall be identified on the tree preservation plan at the time of the first submission of the subdivision plan. The replacement value shall be determined according to the methods contained in the latest edition of the Guide for Plant Appraisal, subject to review and approval by the Urban Forestry Division. At time of site plan approval, the Applicant will post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the designated trees that die or are dying due to negligent construction activities. If trees are found to be dead or dying at time of final bond

release by an Urban Forestry Division Representative due to the Applicants negligent construction activities, the cash bond or letter of credit shall be used to plant similar species of species appropriate to the site, in consultation with Urban Forestry Division and Project Arborist.

- E) Tree protection fencing in the form of fourteen (14) gauge welded wire fencing four (4) feet in height attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet shall be provided along the tree save areas. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence, except super silt fence, shall be performed under the supervision of a certified arborist. Three days prior to the commencement of any clearing, grading, or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

6. Limits of Clearing and Grading:

- A) The applicant shall conform to the limits of clearing and grading shown on the CDP/FDP excepting trails and utility lines as deemed necessary by DPWES. Any trails and utility lines that may be within areas protected by limits of clearing and grading shall be located and installed in the least disruptive manner as possible as determined by the Urban Forestry Division. Those areas outside the permanent easements, disturbed for said installation, shall be replanted as determined by the Urban Forestry Division.
- B) The Applicant shall have limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. The applicant shall walk the limits of clearing and grading with an Urban Forestry Division representative to determine where minor adjustments may be made to the clearing limits to increase the survivability of trees at the edge of the limits of clearing and grading and the applicant shall make those changes. Any tree that is designated for removal within the tree preservation area or at the edge of the limits of clearing and grading shall be removed using a chain saw to avoid damage to surrounding trees.
- C) The EQC/RPA shall be preserved as open-space except for encroachment necessary for the installation of the storm water management facility, utility outfalls and trails. If encroachment is necessary for the installation of the storm water management facility, utility outfalls and trails it shall be done in the least disruptive manner as determined by DPWES and the Urban Forestry Division.

7. Homeowners' Association (HOA):

- A) The Applicant shall establish a HOA for the proposed development to own, manage and maintain all common community open spaces (other than those dedicated to the Park Authority), planting areas, private streets and community structures installed by the applicant. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified, in writing by the Applicant, of said maintenance responsibilities. Said purchasers shall be required to acknowledge receipt of this information in writing. The applicant will establish an initial fund of \$5,000 for road maintenance to be put in escrow prior to final bond release. This information shall also be included in the HOA documents.
- B) The Applicant shall place a covenant on each residential lot, which provides that garages shall be used for purposes that will not interfere with their intended purpose (e.g. parking of vehicles). This covenant shall be recorded among the land records of Fairfax County prior to the sale of any lots and shall run to the benefit of the HOA and to the Board of Supervisors. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's Office. The HOA document shall expressly state this use restriction.

8 Housing Trust Fund:

At the time of the first building permit approval, a contribution shall be made to the Fairfax County Housing Trust Fund of 0.5% of the sales price of each single family dwelling except for the existing home on lot 4. The amount of said contribution shall be determined by the Department of Housing and Community Development.

9 Recreational/Public Facilities:

The Applicant proffers that the expenditure for recreational facilities will be a minimum of \$955.00 per residential unit (total of \$19,100) to be used for onsite recreation facilities (including the Gazebos); the remainder of the funds will go to the Kingston Chase HOA for use at their community center and pool (specifically for a new pool deck and possible second story on the clubhouse). In addition, the Applicant will donate another \$1,100 per DU (total of \$22,000) for use in revitalizing the Kingston Chase club house. The applicant will, at the invitation of the Kingston Chase HOA, pay for membership fees (at the current rate for the Kingston Chase Community) to join the Kingston Chase Community swimming pool for one year for each of the twenty (20) homes in this development. Thereafter, it will be the responsibility of individual home owners to decide whether to join.

10 Storm Water Management Facilities, BMP's:

The Applicant shall provide SWM and BMP in a location as generally shown on the CDP/FDP and in accordance with the requirements of the PFM and Chesapeake Bay Preservation Ordinance, unless modified or waived by DPWES.

The applicant shall provide an enhanced and extended detention pond. The BMP facility will be designed to accommodate the Folly Lick tributary sub watershed of 278 acres to provide BMP benefits for that portion of the watershed in Fairfax County unless BMPs have previously been provided and as required by the Chesapeake Bay Exception conditions as may be adopted by the Board of Supervisors, unless otherwise modified by DPWES

The applicant will utilize Low Impact Design (LID), wherever feasible as determined by DPWES, to minimize the amount of impervious area on the site, reduce discharge velocities leaving the site, increase time of concentration on the site, increase infiltration into the ground, and provide disconnection for runoff from impervious areas. The RPA shall be re-vegetated to achieve a native state as determined appropriate by the Urban Forestry Division. The re-vegetated areas will be composed of native species as determined by the Applicant's arborist and the Urban Forestry Division. Regardless of the landscaping plan on the CDP/FDP the landscaping within the RPA shall be provided in accordance with the Chesapeake Bay Preservation Ordinance ("CBPO") as stated in the Chesapeake Bay Exception (#026338) conditions as may be adopted by the Board of Supervisors and as determined by the Urban Forester and DPWES.

The Applicant will provide landscaping around the area that is cleared for the pond outfall in an amount and type to be determined by the Urban Forestry Division consistent with the Chesapeake Bay RPA exception report. The enhanced pond outfall shall be located and installed in the least disruptive manner feasible, as determined by DPWES, and subject to approval by DPWES and the Urban Forestry Division. Regardless of the landscaping plan on the CDP/FDP, the landscaping within the RPA shall be provided in accordance with the Chesapeake Bay Preservation Ordinance ("CBPO") as determined by the Urban Forester and DPWES. Clearing and grading for the enhanced stormwater pond will be minimized to the maximum extent feasible. If any off-site trees within the areas designated to be preserved are destroyed or irreparably damaged as a result of the Applicant's construction activities, as determined by the Urban Forestry Division, the Applicant will provide appropriate replacement trees in terms of species, size and quantity as determined by the Urban Forestry Division. The applicant shall install said landscaping in accordance with said plan, subject to Urban Forestry approval.

The temporary siltation erosion control facilities for use during on site grading and construction shall be located/sited in an area outside the RPA to the maximum extent feasible which will not require the removal of any additional trees.

11 School Contribution:

Prior to recordation of the record plat, the Applicant shall contribute \$20,000.00 to the Board of Supervisors for transfer to the Fairfax County School Board for modular classroom facilities at Herndon High School. If the modular classroom is no longer needed at the time of record plat then an item of similar value may be substituted as determined by the principal at the discretion of the Fairfax County School Board.

12. Fence:

The Applicant will remove the existing chain link fence around the property and install a fence with brick pillars to be located at the property corners of adjacent single family lots as depicted on the CDP/FDP. The fencing material will be solid wood planks, without spaces. The existing fence will not be removed until the new fence is ready to be installed. The understory branches and other material will be removed from the existing trees to allow the fence to be built.

13 Signs:

No temporary signs (including "popsicle" style paper or cardboard) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on or off site by the Applicant or at the Applicant's direction to assist in the initial sale of homes on the Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale of residential units on the property to adhere to this proffer.

14 Lighting:

All common area lighting except entry monumentation signage lighting (which must be directed upon the signs and not at the sky or road) shall be full cut off directed inward and downward to prevent light spilling onto adjacent properties; public street lighting shall be provided by use of full cut off luminaire fixtures in accordance with the Performance Standards contained in Part 9 (Outdoor Lighting Standards) of Article 14 of the Zoning Ordinance.

15 Architectural Elevations:

The architecture shall generally conform with the illustrative architectural elevation as shown on the CDP/FDP page 4, as determined by DPWES. Building materials will be a mix of brick, conventional simulated wood siding and similar materials.

16: Trails:

On-Site: The Applicant will install the trails as depicted on the CDP/FDP. Both the Stream Valley Trail and the HOA on site trail around the pond will be constructed in accordance with the trail standards in the PFM. The trail around the pond may have gravel shoulders to accommodate maintenance access to the facility. A public access easement shall be provided over the on-site trail in a form acceptable to the Office of the County Attorney. The stream valley trail shall be designed to prevent vehicular access, other than Park Authority vehicles. Curb Cuts and lockable bollards shall be installed to regulate vehicular access to the trail.

Off-Site: The Applicant will construct a stream valley trail along the West side of Folly Lick Branch from the Applicants northern property line to the existing trail near Wiehle Ave Extended, a distance of approximately 1,500 feet. The trail will be constructed on Park Authority owned land to their specifications and only if all permits to construct are granted by the DPWES and Fairfax County Park Authority. If permits are not granted funds shall be escrowed for the trail construction in an amount determined by DPWES.

17. Blasting:

If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will insure that blasting is done per Fairfax County Fire Marshal requirements and all safety recommendations of the Fire Marshal shall be implemented. In addition, the Applicant or its successors shall:

- A) Retain a professional consultant to perform a pre-blast survey of each house or residential building located within two hundred fifty (250) feet of the blast site.
- B) Require his consultant to request access to house, buildings, or swimming pools that are located within said 250 foot range if permitted by owner, to determine the pre-blast conditions of these structures. The Applicant's consultants will be required to give adequate notice of the scheduling of the pre-blast survey. The Applicant shall provide all owners of structures entitled to pre-blast inspections of the name, address, and phone number of the blasting contractor's insurance carrier.
- C) Require seismographic instruments to be placed prior to blasting to monitor the shock waves. The Applicant shall provide seismographic monitoring records to County agencies upon their request.
- D) Notify residences within 250 feet of the blast site ten (10) days prior to blasting.
- E) Upon receipt of a claim of actual damage resulting from said blasting, the Applicant shall cause his consultant to respond within five (5) days by meeting at the site of the alleged damage to confer with the property owner and notify the

Office of the Fire Marshal. Any verified claims for damage due to blasting shall be expeditiously resolved.

- F) The Applicant will require blasting subcontractors to maintain necessary liability insurance to cover the costs of repairing any damages to structures that are directly attributable to the blasting activity.

18. Driveways:

Driveways shall be a minimum of eighteen (18) feet in length from the property line to the garage door.

19. Park Dedication:

At the time of subdivision plat recordation, Parcel A shall be dedicated to the Park Authority and conveyed in fee simple for park purposes. Prior to 1st RUP signage shall be provided indicating that the area is part of the Folly Lick Branch Stream Valley Park and that it is illegal to dump within it.

20. Lot 4:

No additions or accessory structures to Lot 4 shall be permitted that encroach into the RPA. Full disclosure of this restriction shall be noted on the record plat, referenced in the deed, and required in writing to all future purchasers of Lot 4.

21. Entry Feature:

Signage shall comply with Section 12-201 of the Zoning Ordinance. The maximum size of the entry feature shall be thirty (30) square feet and eight (8) feet in height, unless it takes the form of a brick or block pillar(s), which shall not exceed 2 ½ feet on a side and eight (8) feet in height.


22. Typical Lot Layout:

Regardless of the note on Sheet 4, the "Typical Lot Layout" dimensions shall be minimum yard setbacks. The side, rear and front yard setbacks listed on Sheet 3 of the CDP/FDP for Lots 3, 4, 5-7, 10 and 11 shall be minimum setbacks. In addition, Lots 6, 7 and 11 shall have minimum side yards of five feet. Extensions into the minimum yards shall be permitted in accordance with Sect. 2-412 of the Zoning Ordinance.

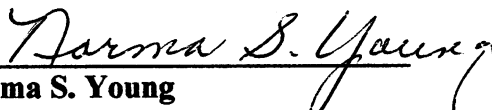
23. Successors and Assigns:

These Proffers will bind and inure to the benefit of the Applicant and his successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning, and shall be binding upon, Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.

OWNER, Freeland G. Young
Tax Map 10-4 ((1)) P. 2-A, 2-B

By: 
Freeland G. Young

OWNER, Norma S. Young
Tax Map 10-4 ((1)) P. 2-A, 2-B

By: 
Norma S. Young

OWNER, Ronald B. Davis
Tax Map 10-4 ((1)) P. 1

By: 
Ronald B. Davis

OWNER, Georgena A. Davis
Tax Map 10-4 ((1)) P.1

By: 
Georgena A. Davis

**CONTRACT PURCHASER &
APPLICANT,**
Landmark Property Development, LLC
Tax Map 10-4 ((1)) P. 1, 2-A, 2-B

By: 
Scott M. Herrick
Its: Managing Member